

Before the
Federal Communications Commission
Washington DC

In the Matter of)	
)	
Improving Public Safety Communications)	
In the 800 MHz Band)	WT Docket No. 02-55
)	
Consolidating the 900 MHz Industrial/Land)	
Transportation and Business Pool Channels)	

REPLY COMMENTS OF EXELON CORPORATION

Exelon Corporation submits this reply to comments filed in response to the Commission’s Notice of Proposed Rule Making in this proceeding.¹ Exelon supports the reply comments of the United Telecom Council (“UTC” or “Council”) in this regard, especially with respect to the Council’s opposition to mandatory relocation of incumbent systems in the 800 MHz band and its recommendation for correction through market-based solutions coupled with real improvements in technical rules to prevent interference.

The record is now full of references to the hardship, expense, and potential risk that would be involved with the mandatory relocation of existing incumbent licensees – especially providers of critical infrastructure services, such as Exelon’s subsidiary PECO Energy Company (“PECO”), which serves about 1.5 million electricity and 430,000 natural gas customers in southeastern Pennsylvania (including Philadelphia) and which currently has licenses for 33 channel pairs in the 800 MHz band. Moreover, the manifest

¹ *In the Matters of Improving Public Safety Communications in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, WT Docket No. 02-55, Notice of Proposed Rulemaking, FCC 02-81, released March 15, 2002 (“NPRM”).

injustice of Nextel's request to effectively force the relocation of prior licensees at their own expense for Nextel's benefit² should be apparent and give the Commission pause. Moreover, as Exelon understands it, the current version of the draft compromise in which the Private Wireless Coalition ("PWC") is involved, while involving less mandatory relocation, would nonetheless require relocation of a substantial portion of incumbents at their own expense.

Exelon continues to offer its proposal as fair, highly workable and efficient and completely consistent with the "first-in-time" policy endorsed by the Commission in other contexts. Specifically, the party newly arriving at a frequency (or making major changes to its system) should be technically and financially responsible for resolution of any interference caused by its operations to the operations of incumbent licensees, even if it is operating within published guidelines while causing the interference. The Commission should adopt rules that provide that the interfering party would have to resolve the interference problem within 60 days or cease operations unless an extension were agreed to by all affected parties. There would be no need for the Commission to specify the type of resolution that would be required. Economics would dictate whether it would be more efficient for the interfering party to modify its own equipment or pay the party experiencing interference to modify its equipment or even to move.

Such approach would avoid the massive dislocations involved with forced moves or rebanding, which may not even be necessary in locations in which there is no interference "victim" and which may not even solve the interference problem in locations in which there is.

² It is Nextel, not incumbent 800 MHz band licensees, that is causing the interference, not only to Public Safety licensees, but to the other users of the band as well.

Exelon, therefore, respectfully requests that the Commission deny Nextel's request and, instead, adopt rules consistent with these comments.

Respectfully submitted,

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